

**CALENDAR ITEM
C60**

A)
) Statewide
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10/13/16

P. Pelkofer

**CONSIDER ADOPTING BEST MANAGEMENT PRACTICES FOR
MARINE DEBRIS REMOVAL AS REQUIRED BY
CALIFORNIA HARBORS AND NAVIGATION CODE SECTION 552**

PARTY:

California State Lands Commission

INTRODUCTION:

In 2015 the California Legislature unanimously passed and the Governor signed AB 1323 (Frazier), Chapter 645, Statutes of 2015, that define as marine debris “a vessel or part of a vessel, including a derelict, wreck hulk, or part of any ship or other watercraft or dilapidated vessel, that is unseaworthy and not reasonably fit or capable of being made fit to be used as a means of transportation by water.”

Chapter 645 adds a provision to Harbors and Navigation Code section 552 requiring that:

On or before January 1, 2017, the State Lands Commission shall adopt, at a public meeting and after consultation with interested state and local agencies, best management practices for salvage of marine debris. These best management practices shall be published by the State Lands Commission on its Internet Web site. The State Lands Commission may amend the best management practices from time to time by the same process, as the State Lands Commission deems necessary.

Commission staff hosted a series of meetings with representatives from the California Department of Resources Recycling and Recovery, California State Parks Division of Boating and Waterways, California Department of Fish and Wildlife, San Francisco Bay Conservation and Development Commission, Regional Water Quality Control Boards Regions 2 (San Francisco Bay) and 5 (Central Valley), and local sheriffs’ marine patrols. Through these meetings, the representatives collaboratively formulated the draft Best Management Practices. Although not required by Chapter 645, the draft was circulated for comment to the Abandoned Vessel Working Group that includes the state and local agencies

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listed above and the U.S. Coast Guard, salvage companies, and the nonprofit advocacy group Recreational Boaters of California.

The purpose of these Best Management Practices is to limit environmental damage during marine debris removal authorized under Harbors and Navigation Code sections 550 and 551. They are not intended to cover all circumstances in removal operations and do not eliminate the removing agency's responsibility to comply with all relevant local, state and federal laws and regulations.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, and 6301 and Harbors and Navigation Code section 552.

Public Trust and State's Best Interests Analysis:

The Commission's responsibility as trustee of the sovereign lands subject to the common law Public Trust Doctrine includes taking actions to protect and preserve those lands. Debris in the state's waterways is a navigational hazard and pollutes the environment. Marine debris removal is necessary for the safety of the boating public and to eliminate degradation of environmentally sensitive waterways. The removal, however, must be done with care and concern for the environment and Public Trust resources. Adoption of the Best Management Practices for marine debris removal will further the protection of sovereign lands, resources and navigable waterways. Commission staff believes the adoption of Best Management Practices for marine debris removal is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. The proposed action is consistent with Strategy 1.1 of the Commission's Strategic Plan Strategy 1.1 to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of lands and resources under the Commission's jurisdiction as expressed in Key Action 1.1.4: Identify and abate hazards and associated liability on sovereign and school lands.
2. Adoption of Best Management Practices for removal of marine debris is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action required by statute. Specific

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activities to remove marine debris will require CEQA review and be the responsibility of the agency carrying out the activity.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Best Management Practices for Removal of Marine Debris

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that adopting the Best Management Practices for removal of marine debris is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Adopt the Best Management Practices substantively in the form attached as Exhibit A for removal of marine debris and direct staff to publish them on the Commission's website.

Exhibit A

BEST MANAGEMENT PRACTICES FOR REMOVAL OF MARINE DEBRIS

These Best Management Practices were developed in consultation with interested state and local agencies to meet the requirements of California Harbors and Navigation Code section 552. Their primary purpose is to limit environmental damage during removal or deconstruction of marine debris authorized under sections 550 and 551 of that statute. These Best Management Practices are not intended to cover all circumstances in removal or deconstruction of marine debris and the public agency removing such debris remains responsible for compliance with all relevant laws and regulations in their removal activities. Inquiries should be made of appropriate agencies concerning required permits, especially when removing vessels that exceed 100 feet in length or more than 100 gross tons.

The following are Best Management Practice guidelines for public agencies removing and processing vessel marine debris while protecting the environment:

1. Prevention of any environmental damage should be the primary concern in removal and deconstruction operations.
2. Prior to deconstruction, marine debris should be evaluated for petroleum products, marine paints, asbestos, polychlorinated biphenyls (PCBs) and other hazardous waste.
3. All known pollutants should be removed prior to deconstruction activities. Pollutants include, but are not limited to petroleum products, batteries, paints, varnishes, solvents, mercury switches, asbestos, electronic wastes, compressed gas cylinders, fire extinguishers, emergency flares, household hazardous wastes, gray water, black water, bilge and ballast waters and tires.
4. If practicable, engines, auxiliary motors, generators, or any other mechanical device with fluid should be removed prior to deconstruction.
5. As waste is generated, it should be classified, managed and disposed of in accordance with applicable state and federal regulations. If needed, hazardous waste materials should be tested and appropriate waste profiles generated.
6. Removal activities should be conducted to avoid disturbance of the bottom surface and surrounding area of the removal site and to avoid dredging or filling outside the footprint of the removal area. Work must not substantially impact the bed, channel or bank of the waterway. Dragging of debris should be avoided both in and out of the water, but if conditions

require debris removal or processing, appropriate countermeasures should be in place or immediately available.

7. All work should avoid impacts to wildlife, particularly species listed as threatened or protected. Appropriate regulatory agencies should be consulted prior to removal activities to ensure that work will not occur in an environmentally sensitive area or during a prohibited time period and that there will be no significant impacts to species or the environment.
8. The preferred method to process marine debris will be to remove the debris intact by crane, air bags, or other mechanical lifts. After removal it should be placed on a barge or other vessel or on land where appropriate containment countermeasures can be implemented during deconstruction. When transported or offloaded on or over the water, appropriate measures should be in place to prevent release.
9. If the condition of the marine debris will not allow for intact removal, debris may be processed or deconstructed in the water after consultation with the appropriate regulatory agency to determine how to avoid or minimize the possible environmental impacts. The decision to process in place should be based on the integrity of the debris, prior failed attempts to remove it intact, and consideration of such things as location, urgency, or need to remove it as a navigational hazard.
10. A debris boom and an absorbent oil boom with blankets should be deployed at the commencement of work around the debris if fuel, oil or other free-floating pollutants are observed or suspected.
11. Agencies undertaking removal of marine debris should establish a contingency plan to contain unintended or unknown release of pollutants and have a spill kit capable of handling observed or suspected fluids. They should also be able to access additional response equipment and be able to immediately contact spill response agencies or organizations.
12. Should a spill or release occur in the water the party responsible for the spill should immediately notify the appropriate response agency.